

**Enrolled Minutes of the Forty-fourth Regular or Special Meeting
For the Twenty-Eighth Highland Town Council
Regular Plenary Business Meeting
Monday, September 25, 2017**

Study Session. The Twenty-Eighth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, September 25, 2017 at 6:47 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, Steven Wagner, and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the agenda of the imminent meeting.
2. The Town Council discussed the rates and charges recommended in the proposed ordinance by the Board of Waterworks Directors. It was noted that the changes to the delinquent charges and the late charges were notable. The Town Council was reminded that it could approve as recommended or modify any of the charges downward but not upward.

The study session ended at 7:05 O'clock p.m.

Regular meeting. The Twenty-Eighth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, September 25, 2017 at 7:10 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President, Dan Vassar presided. The Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. The meeting was opened with Councilor Mark A. Herak reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

Roll Call: Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, Steven Wagner, and Konnie Kuiper. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Town Attorney; Peter T. Hojnicky, Police Chief; John M. Bach, Public Works Director; William R. Timmer, Jr., CFOD, Fire Chief; Alex M. Brown, CPRC, Parks and Recreation Superintendent; Kenneth J. Mika, Building Commissioner; and Kathy DeGuilio-Fox, Redevelopment Director were present.

Additionally present: Susan Murovic, Advisory Board of Zoning Appeals; and Ed Dabrowski, IT Consultant (Contractual) was additionally present.

Guests Present: Matt Felder, View Outdoor, Inc., and James L. Wieser, Attorney were also present.

Minutes of the Previous Meetings: The minutes of the regular meeting of 11 September 2017, were approved by general consent.

Special Orders:

1. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located 8200 Indianapolis Boulevard, **Highland**, to allow the petitioner to construct and install an off premises Light Emitting Diode (LED) Advertising Sign at the location. HMC Section 18.85.020(E) prohibits signs advertising a business, product, service or event not available on the premises where the sign is located. The property is currently zoned as B-3 General Business District. Petitioner: **View Outdoor Advertising, LLC, by its attorney, James L. Wieser**, 429 W. Lincoln Highway, Schererville, Indiana 46375. The Advisory Board of Zoning Appeals by a vote of four (4) in favor and zero (0) opposed acted to **favorably recommend the request for the use variance** for the property. The ABZA acted at its meeting of 28 June 2017. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 26 July 2017.

Pursuant to IC 36-7-4-918.6, the Town Council may either accept the favorable recommendation and GRANT the requested use variance or it may reject (over rule) the favorable recommendation and DENY the use variance. If not acted upon by the Town Council within the 90 days described above, the action of the Advisory Board of Zoning Appeals stands. The ninety days tolls and ends on 26 September 2017.

An opportunity to offer comments were proffered to the petitioner and to anyone else who wished to offer comment. None were received.

Councilor Herak moved to accept the favorable recommendation of the Advisory Board of Zoning Appeals, and Grant the use variance contingent upon compliance or completion of the terms and provisions of a companion agreement between the Town of Highland and View Outdoor, Inc. Councilor Wagner seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The use variance was granted.

2. **Works Board Order No. 2017-22:** An Order Authorizing, Approving, Accepting and Concurring in a Property Donation and Transfer Agreement with View Outdoor Advertising, LLC as Grantor and the Town of Highland as Grantee.

Councilor Wagner moved the passage and adoption of Works Board Order No. 2017-22. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

The Town of Highland
ORDER of the WORKS BOARD NO. 2017-22

An Order Authorizing, Approving, Accepting and Concurring in a Property Donation and Transfer Agreement with View Outdoor Advertising, LLC as Grantor and the Town of Highland as Grantee

Whereas, View Outdoor Advertising, LLC is in the process of acquiring ownership of approximately one and one-half (1.5) acres of real estate within the Town of Highland;

Whereas, Town desires to create an attractive and aesthetically pleasing "gateway" entrance into the community on said Real Estate; and

Whereas, View Outdoor Advertising, LLC has a desire to cooperate with Town to accomplish such a plan, while also constructing and installing an outdoor advertising structure on the Real Estate; and

Whereas, In order to locate an outdoor advertising structure on the Real Estate, View has to obtain a use variance for the construction and installation of the outdoor advertising structure on the Real Estate; and

Whereas, Town wishes to obtain title to three (3) parcels of land adjoining the Real Estate, hereinafter referred to as the Railroad Parcels (being approximately four and eight tenths (4.8) acres);

Whereas, View Outdoor Advertising, LLC desires to aid Town and the Board of Commissioners of Lake County, Indiana (the "Commissioners") for the transfer of title of the Railroad Parcels from the Commissioners to Town pursuant to I.C. 6-1.1-24-6.2; and

Whereas, In order to accomplish the plan of Town to create an attractive and aesthetically pleasing "gateway" entrance to Town on the Real Estate and for View Outdoor Advertising, LLC to obtain the necessary governmental approvals for the construction and installation of an outdoor advertising structure and related utilities on the Real Estate, (collectively, the "Approvals"), the parties have reached an agreement to accomplish both of these purposes and wish to reduce their agreement to writing in this Agreement;

Whereas, The Town of Highland, through its Town Council, acting as the Works Board, now wishes to finally authorize, adopt and approve the utility easement agreement between the Town of Highland and View Outdoor Advertising, LLC;

Now, Therefore, Be It hereby Ordered by the Highland Town Council, acting as the Works Board of the Municipality as follows:

Section 1. That the Agreement between View Outdoor Advertising, LLC and the Town of Highland, which is incorporated by its reference, is hereby authorized, approved, accepted and ratified in each and every respect;

Section 2. That Town of Highland, as Grantee, accepts from the School Town of Highland, as Grantor the following:

(A) Town of Highland accepts three (3) parcels of land adjoining the Real Estate, hereinafter referred to as the Railroad Parcels (being approximately four and eight tenths (4.8) acres), described in the accompanying agreement;

(B) Town of Highland further accepts the other parcels conveyed by warranty deed, and described in the accompanying agreement;

Section 3. That the agreement adopted by this order is incorporated herein as an exhibit to this order;

Section 4. That the Town Council President and the Clerk-Treasurer are hereby authorized and directed to evidence this acceptance, approval and adoption of the easements and agreement by affixing their signatures to the agreement.

Be it So Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 11th day of September 2017 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Dan Vassar, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

AGREEMENT

This Agreement made and entered into this ____ day of _____, 2017, by and between **TOWN OF HIGHLAND, LAKE COUNTY, INDIANA, BY AND THROUGH ITS TOWN COUNCIL** (hereinafter referred to as "Town"), and **VIEW OUTDOOR ADVERTISING, LLC, AN INDIANA LIMITED LIABILITY COMPANY** (hereinafter referred to as "View").

WITNESSETH:

WHEREAS, View is in the process of acquiring ownership of approximately one and one-half (1.5) acres of real estate within the Town of Highland, more particularly described as follows:

PARCEL 1: Part of the Northeast 1/4 of the Northeast 1/4 of Section 20, Township 36 North, Range 9, West of the Second Principal Meridian, in Lake County, Indiana, described as beginning at a point on the Northeast right-of-way line of the Chicago and Erie Railroad Company, which point is 761.79 feet Southeasterly of the point of intersection of United States Government meander line of the South bank of the Little Calumet River, Survey of 1834 and said Northeast right-of-way line of the Chicago and Erie Railroad Company; thence Southeasterly along said railroad right-of-way line, a distance of 232 feet; thence North 52 degrees 12 minutes East 137 feet to the Southwesterly line of Southeastern Avenue (U.S. Highway No. 41); thence Northwesterly along the Southwesterly line of said Highway, a distance of 232 feet; thence Southwesterly 137 feet to the place of beginning, in the Town of Highland, in Lake County, Indiana.

EXCEPT: That part deeded to the State of Indiana for highway purposes in Warranty Deeds recorded February 26, 1996 as Document No. 96013069 and Warranty Deed recorded June 27, 2001 as Document No. 2001 050181, and re-recorded as Document No. 2005 049758, in the Town of Highland, in Lake County, Indiana.

PARCEL 2: Part of the Northeast 1/4 of the Northeast 1/4 of Section 20, Township 36 North, Range 9, West of the Second Principal Meridian, described as beginning at a point on the Northeast right-of-way line of the Chicago and Erie Railroad Company, which point is 993.79 feet Southeasterly of the point of intersection of the United States Government meander line of the South bank of the Little Calumet River, Survey of 1834 and said Northeast right of way line of the Chicago and Erie Railroad Company; thence Southeasterly along said railroad right of way line, 71.36 feet; thence North 52 degrees, 12 minutes, East, 137 feet, to the Southwesterly line of the Southeastern Avenue (U .S. Highway 41); thence Northwesterly along the Southwesterly line of said Highway, 71.36 feet; thence Southwesterly 137 feet, to the place of beginning.

EXCEPT: That part conveyed to the State of Indiana for highway purposes in Warranty Deed recorded June 27, 2001 as Document No. 2001 050181, and re-recorded as Document No. 2005 049758, in the Town of Highland, in Lake County, Indiana.

PARCEL 3: Part of the Southeast 1/4 of the Southeast 1/4 of Section 17, Township 36 North, Range 9, West of the Second Principal Meridian AND part of the Northeast 1/4 of the Northeast 1/4 of Section 20, Township 36 North, Range 9, West of the Second Principal Meridian described as beginning at a point on the Northeasterly right of way line of the Chicago and Erie Railroad Company, said point being 402.86 feet Southeasterly from the intersection of the Northeasterly line of said railroad with the U.S. Government meander line of the South bank of the Little Calumet River, Survey of 1834: thence Northeasterly at right angles to said Northeasterly right of way line of the Chicago and Erie Railroad, a distance of 137.00 feet to the Southwesterly line of Southeastern Avenue (U.S. Highway 41); thence in a Southeasterly direction along the Southwesterly line of said Highway, a distance of 358.93 feet; thence Southwesterly at right angles to the Southwesterly line of the Southeastern Avenue (U.S. Highway 41), a distance of 137.00 feet, to the Northeasterly right of way line of said Chicago and Erie Railroad Company; thence Northwesterly along said Northeasterly right of way line of the Chicago and Erie Railroad Company, a distance of 358.93 feet, to the point of beginning.

EXCEPT: That part deeded to the State of Indiana for highway purposes in Warranty Deed recorded February 26, 1996 as Document No. 96013069 and in Warranty Deed recorded June 27, 2001 as Document No. 2001 050181 and re-recorded in 2005 049758, in the Town of Highland, in Lake County, Indiana.

(hereinafter the "Real Estate"); and

WHEREAS, Town desires to create an attractive and aesthetically pleasing "gateway" entrance into the community on said Real Estate; and

WHEREAS, View has a desire to cooperate with Town to accomplish such a plan, while also constructing and installing an outdoor advertising structure on the Real Estate; and

WHEREAS, in order to locate an outdoor advertising structure on the Real Estate, View has to obtain a use variance for the construction and installation of the outdoor advertising structure on the Real Estate; and

WHEREAS, Town wishes to obtain title to three (3) parcels of land adjoining the Real Estate, hereinafter referred to as the Railroad Parcels (being approximately four and eight tenths (4.8) acres), described as follows:

Parcel 1: Part of the Southeast ¼ of the Southeast ¼ of Section 17, and part of the Northeast ¼ of the Northeast ¼ of Section 20, and part of the Northwest ¼ of the Northwest ¼ of Section 21, all in Township 36 North, Range 9, West of the Second Principal Meridian, being more particularly described as follows: Beginning at a point on the Northeasterly right of way line of the Chesapeake and Ohio Railway System, said point being 513.33 feet Southeasterly from the intersection of the Northeasterly line of said Railroad right of way with the U.S. Government Meander Line of the South Bank of the Little Calumet River (Survey of 1834); thence South 37 degrees 48 minutes 00 seconds East along said Northeasterly right of way line, a distance of 1428.93 feet; thence South 52 degrees 12 minutes 00 seconds West, a distance of 100.00 feet; thence North 37 degrees 48 minutes 00 seconds West, a distance of 1428.93 feet; thence North 52 degrees 12 minutes 00 seconds East, a distance of 100.00 feet to the point of beginning, in the Town of Highland, in Lake County, Indiana.

Parcel 2: Part of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 17, and part of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, and part of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 21, all in Township 36 North, Range 9, West of the Second Principal Meridian, being more particularly described as commencing at a point in the Northeasterly right of way line of the Chicago and Erie Railroad Company, said point being 1056.22 feet Southeasterly from the intersection of the Northerly line of said Railroad with the U.S. Government Meander Line of the South Bank of the Little Calumet River (Survey of 1834), in Lake County, Indiana; thence continuing Southeasterly, along the Northerly right of way of the Chicago and Erie Railroad Company, 775.57 feet; thence Southwesterly normal to the Northerly right of way line of Chicago and Erie Railroad Company, 99 feet to the Southerly right of way line of the Chicago and Erie Railroad Company; thence Northwesterly along the Southerly right of way line of the Chicago and Erie Railroad Company, 775.57 feet; thence Northeasterly, normal to the Southerly right of way line of the Chicago and Erie Railroad Company, 99 feet to the point of beginning, in Lake County, Indiana.

Parcel 3: Part of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 17, and part of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 20, all in Township 36 North, Range 9, West of the Second Principal Meridian, being more particularly described as commencing at a point on the Northeasterly right of way line of the Chicago and Erie Railroad Company, said point being 402.86 feet Southeasterly from the intersection of the Northerly line of said Railroad with the U.S. Government Meander Line of the South Bank of the Little Calumet River (Survey of 1834), said point also being the Southwest corner of Lot 1 in Petrites Addition Unit 1, to the Town of Highland, recorded in Plat Book 44, Page 67, in the Office of the Recorder of Lake County, Indiana; thence continuing Southeasterly along the Northerly right of way line of the Chicago and Erie Railroad Company, 653.36 feet; thence Southwesterly, normal to the Northerly right of way line of the Chicago and Erie Railroad Company, 99 feet to the Southerly right of way line of the Chicago and Erie Railroad Company; thence Northwesterly along the Southerly right of way line of the Chicago and Erie Railroad Company, 653.36 feet; thence Northeasterly, normal to the Southerly right of way line of the Chicago and Erie Railroad Company, 99 feet to the point of beginning, in Lake County, Indiana.

WHEREAS, View desires to aid Town and the Board of Commissioners of Lake County, Indiana (the "Commissioners") for the transfer of title of the Railroad Parcels from the Commissioners to Town pursuant to I.C. 6-1.1-24-6.2; and

WHEREAS, in order to accomplish the plan of Town to create an attractive and aesthetically pleasing "gateway" entrance to Town on the Real Estate and for View to obtain the necessary governmental approvals for the construction and installation of an outdoor advertising structure and related utilities on the Real Estate, (collectively, the "Approvals"), the parties have reached an agreement to accomplish both of these purposes and wish to reduce their agreement to writing in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed by and between Town and View as follows:

1. View agrees to convey and donate the Real Estate to Town by Warranty Deed, subject to the conditions precedent set forth herein.

2. View, shall at its own expense, furnish Town with an Owner's Title Insurance policy issued by Fidelity Title Company, LLC (the "Title Company") insuring merchantable title to the Real Estate and the Railroad Parcels in the amount of Ten Thousand Dollars (\$10,000.00), current to the closing date. In addition, Town shall be furnished, at View's expense, a commitment for said title insurance at least twenty (20) days after the date of this Agreement.

3. **CLOSING.**

a. CLOSING DATE. The closing of the transaction for the Real Estate and the Railroad Parcels (the "Closing") shall occur within thirty (30) days of the last to occur of the following: (i) View Obtaining the Approvals, (ii) View closing on the purchase of the Real Estate, (iii) the Commissioners conveying title of the Railroad Parcels to Town, (iv) View granting and recording a Sign Easement and Declaration of Restrictions (the "Easement") on the Real Estate to White/Peterman Properties, Inc., or (v) View demolishing the structures currently existing on the Real Estate, reducing them to ground level grade and hydro seeding over the demolition site; provided, however, that the Closing shall be no later than December 1, 2017.

b. **CLOSING DELIVERY.** At the Closing, View and Town shall deliver the following:

(1) View shall deliver to Town the following:

(a) Deed. An executed Warranty Deed for the Real Estate in recordable form.

(b) Commissioner's Deed. An executed Commissioner's Deed for the Railroad Parcels in recordable form.

(c) ALTA Statement. An executed ALTA Statement for the Real Estate.

(d) Non-Foreign Affidavit.

(e) Title Insurance Policy.

(f) Other Documents. Such other documents and instruments as set forth in this Agreement or as may be reasonably required by the Title Company for the Closing.

(2) Town shall deliver to View the following:

(a) ALTA Statement. An executed ALTA Statement for the Real Estate.

(b) Other Documents. Such other documents and instruments as set forth in this Agreement or as may be reasonably required by the Title Company for the Closing.

(3) View and Town shall jointly deliver one or more copies of a closing statement, and a Disclosure of Sales Information Form as required by Indiana Code 6-1.1-5.5.

c. **TRANSACTION COSTS/RECORDING FEES.**

(1) View shall be responsible for the cost of the title insurance policy on the Real Estate and Railroad Parcels, one-half (1/2) of the Title Company's closing fee and View's attorney's fees.

(2) Town shall be responsible for the payment of later date title examination, the cost of any non-title clearance endorsements, one-half (1/2) of the Title Company's closing fee, recording fees and Town's attorney's fees.

4. **DEMOLITION OF STRUCTURES.** Prior to closing, View will demolish the structures located on the Real Estate and reduce them to ground level grade and hydro seed over the demolition site. View shall not begin construction of the outdoor advertising structure and its utilities until the Closing has occurred.

5. **EASEMENT IN FAVOR OF VIEW.** Town acknowledges that View will encumber the Real Estate with the Easement prior to donating the Real Estate to Town. The terms of the Easement shall be mutually agreed to by View and Town. View will construct the outdoor advertising structure at its expense pursuant to the specifications set forth in the site drawing for the installation of the outdoor advertising structure attached hereto as Exhibit "A" and incorporated herein by reference.

6. **PUBLIC SERVICE MESSAGING.** View shall provide Town with public service messaging on the outdoor advertising structure, without charge to Town, in perpetuity. The public service messaging to be provided to Town herein shall be as follows: **(PLEASE INSERT DESCRIPTION OF FREQUENCY OF PUBLIC SERVICE MESSAGING TO BE PROVIDED TO TOWN BY VIEW FREE OF CHARGE.)**

7. **CONDITIONS PRECEDENT.** View's obligations herein are subject to the satisfaction, or written waiver by Town, of the following contingencies and conditions precedent, with respect to the Real Estate and Railroad Parcels:

a. That View obtain the Approvals;

b. That View closes on the purchase of the Real Estate;

c. That Town obtains the transfer of title to Town of the Railroad Parcels;

d. That View record the Easement.

8. **RAILROAD PARCELS.** View will reasonably cooperate with Town and its efforts to obtain the Railroad Parcels. View and Town acknowledge that the conveyance of the Railroad Parcels by the Commissioners to Town is a condition precedent to the obligations of View and Town with regard to the provisions in this Agreement and in the event the conveyance of the Railroad Parcels by the Commissioners to Town does not occur, then this Agreement shall be null and void and of no further force and effect.

9. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties in connection with this transaction and supersedes any and all prior written or oral agreement or understanding between the parties in connection with this transaction.

10. **HEADINGS.** The headings of this Agreement are for convenience of reference only and do not in any way limit or amplify the terms and provisions hereof.

11. **ADDITIONAL DOCUMENTATION.** From time to time prior to and after the Closing hereunder, each party shall execute and deliver such additional instruments as may be reasonably requested by the other party or the Title Company, in order to carry out the purpose and intent of this Agreement.

12. **CONSTRUCTION.** The parties acknowledge that each party and its counsel have reviewed and revised this Agreement, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto.

13. **GOVERNING LAW.** This Agreement and the rights and obligations of the parties hereunder shall be governed in accordance with the laws of the State of Indiana.

14. **AMENDMENTS.** This Agreement may not be amended, modified or discharged, nor may any of its terms be waived except by an instrument in writing signed by the Seller and Purchaser.

15. **TIME OF ESSENCE.** Time is of the essence in connection with all matters relating to this Agreement.

16. **SUCCESSOR AND ASSIGNS.** The provisions of this Agreement shall inure to the benefit of, and be binding upon, the respective parties and their successors and permitted assigns.

IN WITNESS WHEREOF, View and Town have entered into this Agreement as of day and year written above.

TOWN:

THE TOWN OF HIGHLAND, LAKE
COUNTY, INDIANA, BY AND THROUGH
ITS TOWN COUNCIL

By: _____
DAN VASSAR, President

VIEW:

VIEW OUTDOOR ADVERTISING, LLC,
an Indiana limited liability company

By: _____
PETE SCHROEDER, President

ATTEST:

MICHAEL W. GRIFFIN,
IAMC/MMC/CPFA/CPFIM/CMO,
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

3. **Public Hearing to Consider Proposed Changes to the Non Recurrent and Recurrent Rates and Charges of the Town of Highland Waterworks Utility.**
- (a) Verification of Proof of Publication. (TIMES 14 September 2017). The Town Attorney indicated that the proof of publication was in order and complied with IC 5-3-1.
 - (b) **Public Hearing.** The Town Council president called the hearing to order.
 - 1. Larry Kondrat, 8115 4th Place East, Highland, asked for clarification on the changes for the delinquency fee and the late charges. It was noted that the former delinquency charge was 10% on the first \$3 and 3% on the balance. The proposed delinquency is \$10 or 10% of the balance, whichever is higher.

The late charges formerly were 3% on the unpaid balance. The proposed late charges were \$10 each month plus 1% on the unpaid balance. It was further noted that this would impact very few of the current customer base as most paid on time and did not require the payment agreement.

There were no other comments. The hearing was closed.

- (c) **Action on Introduced Ordinance No. 1654:** An Ordinance to Amend Sections 12.05.120 (C) and (D) of the Highland Municipal Code Regarding the Department of Waterworks Regarding Certain Rates and Charges, all Pursuant to IC 36-1-4, IC 36-1-5, IC 8-1.5-3-8.1 and IC 8-1.5-4 et seq. *(The Board of Waterworks Directors passed and adopted Water Resolution No. 2017-13 amending its rules regarding changes to the notice and hearing on delinquent water bills and certain rates and charges and recommending this Ordinance for hearing and adoption. Pursuant to the terms of IC 8-1.5-3-8.1 and Section 12.05.080(I) of the municipal code, this matter was introduced and set for public hearing. Councilor Herak introduced proposed Ordinance No. 1654 and filed it at the Town Council meeting of Monday, September 11, 2017. If adopted changes will be upon adoption, with the billing authority granted reasonable timetable to implement). Pursuant to IC 8-1.5-3-8.1(d), the Town Council shall adopt the ordinance as introduced (recommended) or as modified.)*

Councilor Herak introduced and moved for the consideration of Ordinance No. 1654 at the same meeting of its introduction. Councilor Zemen seconded. A unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting of introduction.

Councilor Herak moved for the passage adoption of Ordinance No. 1654 at the same meeting of its introduction. Councilor Zemen seconded. A two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was passed and adopted at the same meeting of introduction.

(It is noted that the ordinance was previously introduced. Its passage would only require a majority vote.)

**ORDINANCE No. 1654
of the
TOWN of HIGHLAND, INDIANA**

AN ORDINANCE to AMEND SECTIONS 12.05.120 (C) AND (D) of the HIGHLAND MUNICIPAL CODE REGARDING the DEPARTMENT OF WATERWORKS REGARDING CERTAIN RATES AND CHARGES, all PURSUANT to I.C. 36-1-4, IC 36-1-5, IC 8-1.5-3-8.1 and IC 8-1.5-4 ET SEQUITOR.

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

WHEREAS, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through enactment of an ordinance passed by the legislative body; and

WHEREAS, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

WHEREAS, The Town of Highland, is a municipality located in Lake County, which operates a water utility, which has been continuously governed by the provisions of IC 8-1.5-4 at least since 1983;

Whereas, The Town Council as Legislative Body of the Municipality passed an Ordinance adopting the provisions of IC 8-1.5-4 establishing a department of waterworks controlled by a board of directors;

Whereas, The Board of Waterworks Directors has passed and adopted *Board Resolution No. 2017-13* approving and recommending certain changes to the rates and charges of the utility for adoption by the Town Council, all pursuant to IC 8-1.5-3-8.1 and Section 12.05.080 (G) through (I) of the municipal code of the Municipal Code;

WHEREAS, The Town of Highland, through its Town Council now wishes to further perfect its own organization as well as that of the water utility and make modifications to the provisions of the municipal code establishing and governing the Department of Waterworks, as approved and recommended by the

Board of Waterworks Directors, all pursuant to IC 8-1.5-4, IC 8-1.5-3-8.1 and Section 12.05.080 (G) through (I) of the municipal code;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Town Council as the municipal fiscal and legislative body makes the following findings and determinations:

(A) That Board of Directors of the Highland Department of Waterworks, at its special meeting of September 7, 2017 did pass and adopt Water Rate Resolution No. 2017-13 in which among other things the Board approved a modification to certain rates and charges and recommended its adoption by the Town Council as desirable, and urging the Town legislative body to take steps necessary to execute this recommendation;

(B) That the recommendation for certain changes to rates and charges of the municipal water utility as approved by the Board of Waterworks Directors in the form of this ordinance, was transmitted to and filed with Clerk-Treasurer as clerk of the legislative body;

(C) That the rates and charges as recommended are found and determined to be non-discriminatory, reasonable and just rates and charges for services to the patrons of the water utility;

Section 2. That Section 12.05.120 (C) of the Highland Municipal Code, is hereby repealed and now amended with a successor section, styled as Section 12.05.120 (C), which shall read as follows:

12.05.120 Schedule of rates and charges.

(C) *Delinquent Payment Penalty.* All bills for water service not paid on the due date thereof, as stated in such bills, shall be subject to a collection or delinquent payment charge **the greater of ten dollars (\$10) or ten percent (10%) on the first \$3.00 of any balance due and owing; and three percent on the excess over \$3.00.** Also see late payment charge in Rule 2.3. (See Waterworks Rule 2.2.1)

Section 3. That Section 12.05.120 (D) of the Highland Municipal Code, is hereby repealed and now amended with a successor section, styled as Section 12.05.120 (D), which shall read as follows:

12.05.120 Schedule of rates and charges.

(D) Schedule of Nonrecurring Fees and Charges. The following additional fees and charges are set forth as follows:

(1)	Service Deposit:	
	Residential	\$60.00
	Small business	\$75.00
	Large business (car wash, laundromat, restaurant) (See Rule 1.8)	\$200.00
(2)	Construction Water Use:	
	Without meter. See building inspector for charges (See Rule 1.10)	
(3)	Service Charge for Meters:	
	5/8"	Meter cost plus \$50.00
	1"	Meter cost plus \$50.00
	1-1/2"	Meter cost plus \$50.00
	For larger meters	Meter cost plus \$50.00
(4)	Tapping/Inspection Charge	
	Residential	\$200.00
	Commercial/Industrial	\$330.00

- | | | |
|----------------------|---|---|
| (5) | Meter Testing (Residential) | \$ 35.00 |
| | Meter testing all others
(See Rule 1.16.1(I)) | Actual cost plus
\$15.00 |
| (6) | Read-O-Matics: | |
| (7) | Frozen or Carelessness/Repair of Meter: | |
| | Fee scheduled by water department
(See Rule 1.16.1(H)) | |
| (8) | Late or Delayed Payment Charge: | |
| | Ten dollars (\$10) per month plus Three one (1%) percent per month on unpaid balance. | |
| (9) | Service Restoration Charges: | \$30.00 |
| | Turn Off Charge | \$15.00 |
| | Turn On Charge
(See Rule 1.17.2(B) 1.17.3) | \$15.00 |
| | Urgent service restoration surcharge: | |
| | In addition to the fees above, a surcharge in the identified amount will be charged to restore water services Monday through Thursday after 3:00 p.m. | |
| (9) (10) | Returned or NSF Checks:
(See Rule 1.17.2(H) 1.17.3(I)) | Actual bank charge
plus \$7.50 \$15.00
administrative fee. |
| (10) (11) | Maintenance of Service Pipes and Meter Boxes: Water wastage service fee after grace period (See Rule 1.14) | \$20.00 per day |
| (11) (12) | Manual Meter Reading Surcharge Fee
(See Rule 1.17.2 1.17.3) | \$28.33 per month |

Section 4. Schedule of Implementation. The provisions of this Ordinance shall become and be in full force and effect *on the first day of the month first following* from and after the date of its passage and adoption upon the signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 11th day of September 2017 Consideration on same day or at same meeting of introduction was not permitted, pursuant to the terms of IC 8-1.5-3-8.1 and Section 12.05.080 (l) of the municipal code.

DULY ORDAINED and ADOPTED this 25th Day of September 2017 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/ Dan Vassar, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

4. **Presentation of proposed Highland Urban Forest Management Plan.** *The Town of Highland received financial support from National Oceanic and Atmospheric Administration (NOAA), Indiana Department of Natural Resources , Lake Michigan Coastal Program and the Town of Highland in order to support the creation of an urban forest management plan. If authorized, a public hearing on the plan will be conducted at the Town Council meeting of Monday, October 9, 2017.*

Richard Underkofler introduced Mr. Jim Semelka, a Licensed Arborist, who offered a Powerpoint® assisted presentation regarding the enrolled Urban Tree Management Plan.

General Orders and Unfinished Business:

1. **Proposed Ordinance No. 1655:** An Ordinance To Amend The Compensation, Benefits And Personnel Program Of The Municipality, Known As The *Compensation And Benefits Ordinance* Commonly Known As The *Municipal Employees Handbook*, To Make Certain Modifications to the Employer Contributions to Employee Health Savings Accounts, Pursuant to I.C. 36-1-3; I.C. 5-10-8-2.2, I.C. 5-10-8-2.6 and Other Relevant Statutes.

Councilor Herak introduced and moved for the consideration of Ordinance No. 1655 at the same meeting of its introduction. Councilor Zemen seconded. A unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting of introduction.

Councilor Herak moved for the passage adoption of Ordinance No. 1655 at the same meeting of its introduction. Councilor Zemen seconded. A two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was passed and adopted at the same meeting of introduction.

**ORDINANCE No. 1655
of the
TOWN of HIGHLAND, INDIANA**

AN ORDINANCE TO AMEND THE COMPENSATION, BENEFITS AND PERSONNEL PROGRAM OF THE MUNICIPALITY, KNOWN AS THE COMPENSATION AND BENEFITS ORDINANCE COMMONLY KNOWN AS THE MUNICIPAL EMPLOYEES HANDBOOK, TO MAKE CERTAIN MODIFICATIONS TO THE EMPLOYER CONTRIBUTIONS TO EMPLOYEE HEALTH SAVINGS ACCOUNTS, PURSUANT TO I.C. 36-1-3; I.C. 5-10-8-2.2, I.C. 5-10-8-2.6 AND OTHER RELEVANT STATUTES.

WHEREAS, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

WHEREAS, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

WHEREAS, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

WHEREAS, I.C. 36-5-3-2(b), still further provides that the Town Legislative body shall, by ordinance fix the compensation of its own members and the Town Clerk-Treasurer;

WHEREAS, I.C. 36-5-3-2(c) still further provides that the compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year;

WHEREAS, The Town Council of the Town of Highland, as the town legislative body, now desires to amend the ordinance that was adopted to fix the compensation of its elected officers, appointed officers and employees of the Town for the year 2017 and thereafter, the Compensation and Benefits Ordinance, commonly known as Municipal Employees Handbook, first adopted under Ordinance No. 1378, as amended;

WHEREAS, The Town Council of the Town of Highland, as the town legislative body, now desires to fix the compensation of its elected officers, appointed officers and employees of the Town for the year ensuing and thereafter;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Highland, Lake County, Indiana, that the compensation and benefits of the Officers and Employees of the Town of Highland, are hereby established and fixed, pursuant to the provisions indicated herein and as follows:

Section 1. That Section § 6.03.03 of the Compensation and Benefits Ordinance commonly known as the Municipal Employees Handbook, first adopted under Ordinance No. 1378, as amended, be further amended by repealing it in its entirety and replacing with successor sections, which shall be styled and read as

follows:

§ 6.03.03 Health Savings Accounts (HSA Accounts)

The Town of Highland will provide a HIGH DEDUCTIBLE option in its group health insurance to support worker establishment of a *Health Savings Account* pursuant to and as outlined in the relevant sections of the Internal Revenue Code. The plan option will only be available to eligible employees of the town hereinafter defined who may elect the higher deductible option for the group health insurance plan. The Town of Highland as employer will make a financial contribution to the individual health saving account of the eligible employees of the town hereinafter defined that elect to participate. The eligible employees of the town hereinafter defined must not be covered by any other group health insurance plan. Details of the plan shall be maintained as a plan document and retained on file. The financial contribution will be paid in quarterly installments and be based upon the high deductible group health plan elected by the participating eligible employees of the town hereinafter defined as follows:

Group Health Insurance High Deductible (HSA) Plan *(These employer contributions will be effective until December 31, 2017)*

	Employer Quarterly Contribution	Annualized
Employee Single Coverage	\$ 225.00	\$900.00
Employee With Children	429.50	\$1,718.00
Employee With Spouse	452.25	\$1,809.00
Family Coverage with Spouse and Children	655.75	\$2,623.00

Amended by Ordinance No. 1527 adopted November 26, 2012; *Ordinance No. 1615 23 May 2016*

Group Health Insurance High Deductible (HSA) Plan *(These employer contributions will be effective from January 1, 2018)*

	Employer Quarterly Contribution	Annualized
Employee Single Coverage	\$245.25	\$ 981.00
Employee With Children	\$474.00	\$1,896.00
Employee With Spouse	\$499.00	\$1,996.00
Family Coverage, Spouse and Children	\$723.00	\$2,892.00

Section 2. That all portions of ordinances in conflict with this ordinance are hereby repealed and are of no further force nor effect;

Section 3. (A) That an emergency exists for the immediate taking affect of this Ordinance, which, subject to the provisions of this ordinance, shall become effective and shall remain in full force and effect from and after the date of its passage and adoption, pursuant to any effective dates herein described and until its repeal or amendment by subsequent enactment;

(B) That the Clerk-Treasurer shall have authority to implement the provisions of this ordinance pursuant to the authority expressly set forth in IC 36-5-6-6 (a) (3) & (4).

Introduced and Filed on the 25th day of September 2017. Consideration on same day or at same meeting of introduction sustained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 25th Day of September 2017, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/ Dan Vassar, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5; IC 36-5-2-10.2)

2. **Resolution No. 2017-35:** A Resolution Authorizing The Assignment Of A Previously Approved License Agreement Between SIGECOM, LLC And The Town Of Highland For Use Of The Town Rights-Of-Way.

Councilor Wagner moved the passage and adoption of Resolution No. 2017-35. Councilor Herak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion was adopted.

**TOWN of HIGHLAND
RESOLUTION NO. 2017-35**

A RESOLUTION AUTHORIZING THE ASSIGNMENT of a PREVIOUSLY APPROVED LICENSE AGREEMENT BETWEEN SIGECOM, LLC AND THE TOWN OF HIGHLAND FOR USE OF THE TOWN RIGHTS-OF-WAY

WHEREAS, Section 5 of IC 36-9-2 provides that a unit of local government may establish, vacate, maintain and operate public ways;

WHEREAS, Section 6 of IC 36-9-2 provides that a unit of local government may grant rights of way through, under and over public ways; and,

WHEREAS, Section 7 of IC 36-9-2 provides that a unit of local government may regulate the use of public ways,

NOW, THEREFORE BE IT RESOLVED by the Town Council of Highland, Lake County, Indiana, as follows:

Section 1. That the Town of Highland Town Council did pass and adopt Resolution No. 2015-48 on October 12, 2015 authorizing and approving a certain License Agreement (the "Agreement"), between the Town of Highland ("Town") and SIGECOM, LLC ("Licensee"), to utilize portions of the public rights-of-way within Town boundaries solely for the purpose of installing and operating aerial fiber optic telecommunications cables, as set forth in the form of the Agreement submitted to this meeting with the required recommendations;

Section 2. That the General Counsel of *Wide Open West, Incorporated* communicated to the Town that on August 1, 2017, entered into an Asset Purchase Agreement with *MCI Metro Access Transmission Services Corp.* (VERIZON), an indirect, wholly-owned subsidiary of Verizon Communications, Inc., pursuant to which Verizon agreed to acquire certain assets, and to assume certain liabilities from *Wide Open West, Incorporated* that are related to its fiber network in the area of Chicago, Illinois;

Section 3. That in connection with the forgoing, *Wide Open West, Incorporated* is to assign all of its rights and obligations arising on and after the closing of the License Agreement by and between the Town of Highland and SIGECOM, LLC, a rendering of which is incorporated as an exhibit to this order;

Section 4. That the Town Council of the Town of Highland, Indiana, hereby re-affirms the terms and provisions of the form and substance of a certain License Agreement (the "Agreement"), between the Town of Highland ("Town") and SIGECOM, LLC ("Licensee"), to utilize portions of the public rights-of-way within Town boundaries solely for the purpose of installing and operating aerial fiber optic telecommunications cables, as set forth in the form of the Agreement submitted to the meeting of the Town Council, conducted on October 12, 2015 with the required recommendations, and adopted by Resolution No. 2015-28;

Section 5. That the Town of Highland hereby acknowledges the terms and provisions set forth in Sections 1 and 2 of this Resolution, and authorizes and approves consenting to the assignment herein described;

Section 6. That the Town Council President and Town Clerk-Treasurer are hereby respectively authorized and directed for and on behalf of the Town to execute, attest, seal and deliver the evidence of the consent to assignment of the Agreement, substantially in the form approved in the foregoing paragraph of this order together with such changes as the proper officer or legal counsel shall deem necessary;

Section 7. That the proper officials, agents and employees of the Town are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Town in accordance with the provisions of the Agreement;

Section 8. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed;

Section 9. That this Resolution shall be in full force and effect from and after its passage as provided by law.

DULY RESOLVED and ADOPTED this 25th Day of September 2017 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Dan Vassar, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

EXHIBIT A Existing Agreement

**TOWN of HIGHLAND
RESOLUTION NO. 2015-48**

**A RESOLUTION AUTHORIZING EXECUTION OF A LICENSE
AGREEMENT BETWEEN SIGECOM, LLC AND THE TOWN OF
HIGHLAND FOR USE OF THE TOWN RIGHTS-OF-WAY**

WHEREAS, Section 5 of IC 36-9-2 provides that a unit of local government may establish, vacate, maintain and operate public ways;

WHEREAS, Section 6 of IC 36-9-2 provides that a unit of local government may grant rights of way through, under and over public ways; and,

WHEREAS, Section 7 of IC 36-9-2 provides that a unit of local government may regulate the use of public ways,

NOW, THEREFORE BE IT RESOLVED by the Town Council of Highland, Lake County, Indiana, as follows:

Section 1. That the form and substance of a certain License Agreement (the "Agreement"), between the Town of Highland ("Town") and Sigecom, LLC ("Licensee"), to utilize portions of the public rights-of-way within Town boundaries solely for the purpose of installing and operating aerial fiber optic telecommunications cables, as set forth in the form of the Agreement submitted to this meeting with the required recommendations is hereby approved;

Section 2. That the Town Council President and Town Clerk-Treasurer are hereby respectively authorized and directed for and on behalf of the Town to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the

DULY RESOLVED and ADOPTED this 12th Day of October 2015 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA


Mark A. Herak, President (IC 36-5-2-10)

Attest:


Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)



**LICENSE AGREEMENT FOR THE USE OF TOWN RIGHTS-OF-WAY
BETWEEN SIGECOM, LLC AND THE TOWN OF HIGHLAND**

This License Agreement ("Agreement") is entered into on the ____ day of _____, 2015 ("Effective Date"), by and between the Town of Highland, an Indiana municipal corporation (hereinafter referred to as the "Town") and Sigecom, LLC, an Indiana limited liability company (hereinafter referred to as the "Licensee").

WHEREAS, The Town is the exclusive owner of certain public rights-of-way, and has approved official standards for construction of facilities on the public rights-of-way; and

WHEREAS, The Licensee holds an Indiana State cable franchise authorization and operates a cable system as set forth in 47 U.S.C. §522 of the Cable Communications Policy Act of 1984, as amended from time to time, throughout part of the State of Indiana, and holds a certificate of authority with the Indiana Utility Regulatory Commission; and

WHEREAS, Licensee desires to utilize portions of the public rights-of-way within the boundaries of the Town (the "ROW's") for the limited purpose of installation and maintenance of fiber optic telecommunications cables, which will be installed on existing utility poles located within the ROW's; and

WHEREAS, Licensee is not delivering cable service to residents of the Town, and instead is providing fiber optic telecommunications services for the benefit of Verizon Wireless and other potential business customers; and

WHEREAS, In consideration of the payment of a license fee, the Town desires to allow Licensee to utilize the ROW's for such purposes, subject to the provisions of this Agreement; and

WHEREAS, The Town has the authority to enter into this Agreement pursuant to the powers granted it by the Home Rule Provisions of IC 36-1-3-2, and finds that entering into this Agreement is in the best interests of the Town, its residents, and the public; and

WHEREAS, Licensee is authorized and empowered to enter into this Agreement and to perform the covenants and promises herein made and undertaken,

NOW, THEREFORE, in consideration of the mutual consideration exchanged between the parties as set forth herein, the sufficiency and receipt of which are mutually acknowledged, the parties agree as follow:

1. **Recitals.** The above-stated Recitals are hereby incorporated into this Section 1 as though fully set forth herein.

2. **Grant of License.** For and in consideration of the mutual covenants herein, and subject to the terms and conditions set forth herein and compliance with all Federal, State and local laws and regulations, the Town hereby grants a non-exclusive revocable license ("License") to Licensee to allow Licensee to construct, use, operate, own and maintain a fiber optic and coaxial line (the "System") within the Town's ROW's identified herein. The License granted by this Agreement shall not convey any right, title or interest (including leasehold interest) in the ROW's, but shall be deemed to be a license only to use and occupy the ROW's for the limited purposes stated herein.

3. **Location and Description of Licensee's System.** Licensee's System, for which this License herein is granted, consists of the following: A dark fiber installation, following the route depicted on Exhibit "A", attached hereto. Licensee shall donate twelve (12) dark fiber strands (the "Town Dark Fibers") from this installation to the Town for its use. The Town Dark Fibers will consist of dark fibers more particularly described in Exhibit "C" to this Agreement. The Town Dark Fibers will be used by the Town in a lawful manner and for the Town's internal, non-commercial uses, and shall not be transferred without the prior written consent of Licensee. The Town Dark Fibers may not be used to provide or sell services to others. The Town Dark Fibers consist solely of the dark optical fibers themselves, and does not include any associated equipment that may be necessary or desirable to enable the Town to use the Town Dark Fibers. "Equipment" means all power, electronic, optronic and telecommunications equipment, including, without limitation, transmission, testing, switching, alarm-monitoring, and repair equipment and all other articles of personal property used for the transmission or receipt of services over the Town Dark Fibers. The Town further agrees that: (i) use of the Town Dark Fibers shall not interfere with Licensee's System; and (ii) all work upon the Town Dark Fibers shall be performed by Licensee, including installation, splicing and maintenance. Should the Town require such services to be performed at any time during the Term of this Agreement, it shall provide Licensee with notice and a description of the desired work. Licensee shall complete the described work within a commercially reasonable time after notification. Licensee shall have the right, at the Town's expense, to maintain, repair or replace the Town Dark Fibers, if necessary to protect, maintain or ensure the integrity, functionality and/or operation of its System.

4. **Term; Payments.** The License granted by the Town to Licensee shall be for a period of ten (10) years from the Effective Date of this Agreement. For the initial term, Licensee shall pay a license fee in the amount of Two Thousand Dollars and No Cents (\$2,000.00) to the Town prior to the issuance of any permits. Licensee shall make subsequent payments in the amount of Two Thousand Dollars and No Cents (\$2,000.00) each year during the Term of this License, due on the Anniversary of the initial payment. This Agreement may be renewed by mutual agreement of the parties for successive ten (10) year terms provided the Licensee is in full compliance with the terms and conditions of this Agreement at the time of renewal. Licensee shall make written request for renewal of this Agreement at least sixty (60) days prior to expiration of the current term. Unless otherwise provided by law, each renewal shall be subject to a License Fee that will be determined at the time of each renewal but shall be proportional to the amount

of fiber/cable that has been installed up to that time in comparison to this initial license fee and installation. In the event the parties cannot agree upon an amount for the License Fee for a renewal term, this Agreement shall terminate and Licensee shall remove its System from all Town ROW's and restore all ROW's as required herein.

5. **Use of ROW's.** In its use of the ROW's and any work to be performed therein, Licensee shall comply with all applicable laws, ordinances, regulation and requirements of federal, state, county and local regulatory authorities, including the applicable provisions of the Town of Highland Municipal Code.

(A) The License and the grant of authority conferred in Section 2 above are non-exclusive. The Licensee shall respect the rights and property of Town and other authorized users of streets, sidewalks, easements, power poles, street light poles, vaults, conduits and rights-of-way and adjacent property owners.

6. **Permits.** Licensee shall pay all required permit and other fees and obtain all necessary and required permits from the Town for its System prior to performing any work on its System within Town ROW's. Licensee shall also post such necessary security for its work as required by Town ordinance.

7. **Maintenance.** Maintenance of the System with the ROW's shall be the responsibility of Licensee. The System shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state, county and local laws, regulations and policies. The Town reserves the right to enter upon and repair any or all damage to the areas surrounding the licenses premises, and if such damage is caused by Licensee, then the actual, reasonable and documented cost of such repair shall be the responsibility of the Licensee.

(A) Notwithstanding any provisions to the contrary herein, in the event of an unexpected repair or emergency, Licensee may access the ROW's and commence such Emergency Maintenance work as required under the circumstances, provided Licensee shall comply with the requirements for Emergency Maintenance set forth in the Town ordinances.

8. **Restoration of ROW's.** Within ten (10) days after initial construction operations have been completed or after repair, relocation or removal of the System, Licensee shall grade and restore all areas disturbed or damaged by construction operations to a condition substantially similar to that which existed prior to the work. All disturbed or damaged grass areas shall be restored with sod.

(A) In the event Licensee fails, in a timely manner, to restore any disturbances or make any and all repairs to the ROW's or other Town property, the Town may make or cause to be made such restoration or repairs upon written demand and receipt by Licensee of all invoices and documentation supporting the actual costs incurred by the Town, or demand payment from the security posted by the Licensee, which payment must be received by the Town within thirty (30) days of demand and receipt by Licensee of all invoices and documentation supporting the actual costs incurred by the Town.

9. **Damage to Licensee's System.** Unless directly and proximately caused by the willful, intentional or malicious acts of the Town, the Town shall not be liable

for and Licensee expressly waives all claims for any damage to or loss of Licensee's System within the ROW's.

10. **Licensee Form of Business Disclosure.** Licensee agrees to complete and maintain on file with the Town a current Disclosure Affidavit, attached as Exhibit "B" to this Agreement.

11. **No Transfer or Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. During the term of this Agreement, Licensee acknowledges and agrees that it does not have the right or authority to transfer or assign this Agreement or any interest herein without the prior written consent of the Town, which will not be reasonably withheld or delayed; provided, however, this Agreement may be assigned by the Licensee without consent to an affiliate, or to a successor in connection with a merger, reorganization or sale of all or substantially all of Licensee's assets or ownership.

12. **Indemnity/Hold Harmless.** To the fullest extent permitted by law, Licensee shall defend, indemnify, keep and hold harmless the Town and its officials, officers, employees and agents from and against all injuries, deaths, losses, damages, claims, demands, suits, liabilities, judgments, costs and expenses, including reasonable attorneys' fees, which may arise out of, or result from, directly or indirectly, any negligent, careless or wrongful acts or omissions or from the reckless or willful misconduct of Licensee, its affiliates, officers, employees, agents, contractors or subcontractors in the installation, operation, relocation, repair, maintenance or removal of the System or Licensee's use of ROW's, and in providing or offering service over the System.

(A) Licensee shall at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Town in any such action, Licensee shall, at its own expense, satisfy and discharge the same. This Agreement shall not be construed as requiring the Licensee to indemnify the Town for its own negligence. The indemnification required hereunder shall not be limited by the amount of the insurance to be maintained hereunder.

13. **Insurance.** Licensee shall maintain, at its own expense, the following minimum levels of insurance until the Systems is removed from the ROW's and the ROW's have been properly restored as required herein:

(A) Workers Compensation – Statutory Limits

(B) Employers Liability - \$1,000,000 per employee and \$1,000,000 per accident.

(C) Commercial General Liability, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:

(1) Five million dollars (\$5,000,000) for bodily injury or death to each person;

(2) Five million dollars (\$5,000,000) for property damage resulting from any one accident; and

(3) Five million dollars (\$5,000,000) for all other types of liability;

(4) Automobile Liability for all owned, hired and non-owned automobiles - \$1,000,000 each accident;

(D) If the Licensee is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this section.

(E) Prior to commencing work on the System described herein, Licensee shall furnish the Town with the appropriate Certificates of Insurance, and applicable policy endorsements. Licensee shall have Commercial General Liability, Automobile Liability, and Umbrella/Excess Liability policies endorsed to add the "Town of Highland, its officers, officials, agents and employees" as "additional insureds". Such insurance afforded to the Town shall be endorsed to provide that the insurance provided under each policy shall be Primary and Non-Contributory.

(F) Commercial General Liability Insurance required under this section shall be written on an occurrence form and shall include coverage for Products/Completed Operations, Personal Injury with Employment Exclusion (if any) deleted, Blanket XCU and Blanket Contractual Liability insurance applicable to defense and indemnity obligations. The limit must be on a "Per Project Basis". Commercial General Liability, Employers Liability and Automobile Liability Insurance may be arranged under single policies for full minimum limits required, or by a combination of underlying policies with the balance provided by Umbrella and/or Excess Liability policies. Workers' Compensation coverage shall include a waiver of subrogation against the Town.

(G) All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with Licensee in the State of Indiana. (All insurance carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company)

(H) All insurance policies shall contain a provision that coverages and limits afforded hereunder shall not be cancelled, materially changed, non-renewed or restrictive modifications added, without thirty (30) days prior written notice to the Town. Renewal certificates shall be provided to the Town not less than five (5) days prior to the expiration date of any of the required policies. All Certificates of Insurance shall be in a form acceptable to the Town and shall provide satisfactory evidence of compliance with all insurance requirements. The Town shall have the right to examine any policy required and evidenced on the Certificate of Insurance.

14. **Security.** Prior to performing work in the ROW's, Licensee shall establish a security fund in an amount determined by the Director of Public Works or another designee, which shall be provided to the Town in the form of a Construction Bond. This security requirement shall not exceed \$25,000. This shall serve as security for the purposes set forth above including but not limited to the installation of the System in compliance with applicable plans, permits, technical codes and standards,

the proper location of the System as specified by the Town, restoration of ROW's and other property affected by the construction or to satisfy any claims or damages.

15. **Termination.** This Agreement may be terminated by Licensee at any time during the term, and for any reason, by the giving of thirty (30) days advance written notice to the Town of its intention to terminate. This Agreement may be terminated by the Town only for the following reasons:

(A) A material violation of the terms of this Agreement where Licensee fails to cure such material violation within thirty (30) days after receipt of written notice by Town which identifies the violation.

(B) The material failure of Licensee to comply with all applicable local, State and Federal laws, rules, regulations in any way governing or applying to Licensee's System.

(C) Licensee made fraudulent, false, misrepresenting, or materially incomplete statements in seeking this Agreement or in the permit application.

(D) Construction of its System contrary to the plans and specifications approved by the Town.

(E) The Licensee has been adjudged to be bankrupt, has a receiver appointed for it, makes an assignment for the benefit of creditors, or has a significant amount of its property sold under the execution or other legal process or is seized by creditors.

(F) The Licensee transfers this License without Town approval as required herein.

(G) The Licensee ceases its business operations, or otherwise abandons the System, unless such abandonment is temporary due to events beyond the reasonable control of Licensee.

(H) Licensee's physical presence or presence of Licensee's System on, over, above, along, upon, under, across or within the ROW's presents a direct or imminent threat to the public health, safety or welfare.

(I) Failure to provide the required traffic control; and to respond to requests from the Town to correct such deficiencies within a reasonable time.

(J) Upon the termination of this License, whether by either party and for whatever reason, Licensee shall remove Licensee's System from the Town's ROW's within thirty (30) days of such termination, and shall perform all restoration work to the ROW's as required by Town ordinances and policies.

16. **Amendments.** This Agreement represents the entire agreement between the parties. No oral changes or modifications of this Agreement shall be permitted or allowed. Changes or modifications to this Agreement shall be made only in writing and upon necessary and proper signature of the Licensee and the Town.

the Parties will negotiate in good faith to modify the Agreement to permit each Party, to the extent practicable, to enjoy the intended benefits of this Agreement. The Parties otherwise mutually agree to cooperate with each other in good faith to permit the parties to perform their duties and obligations under the Agreement, as modified by this Addendum.

23. **Force Majeure.** The Town and the Licensee shall not be responsible for any failure to perform or delay in performance due to unforeseen circumstances, or due to a cause beyond the party's control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, acts of suppliers or vendors, strikes or shortages or failures of telecommunications or computer resources, fuel, energy, labor or materials.

IN WITNESS THEREOF, the parties have signed below, effective as of the Effective Date, by their duly authorized representatives.

TOWN:

LICENSEE:

TOWN OF HIGHLAND

SIGECOM, LLC

By: 
Mark A. Herak

By: _____

Its: Town Council President

Its: _____

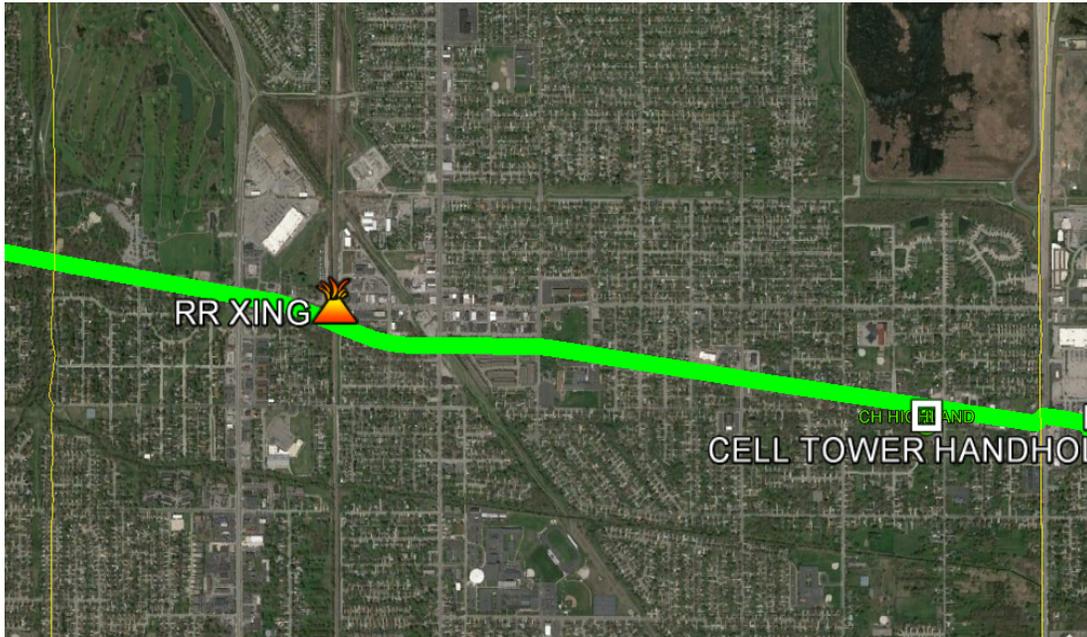
Attest:


Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Town Clerk-Treasurer



EXHIBIT "B"

LOCATIONS OF RIGHTS-OF-WAY FOR LICENSEE'S SYSTEM



3. **Works Board Order No. 2017-23:** An Order Approving and Authorizing the Entry into Service Agreement with COMCAST for Certain Telecommunications Internet and Television Services Plus Installation Services for the Highland Parks and Recreation, Highland Municipal Building, Highland Public Works Facility, and the Highland Fire Stations, pursuant to Chapter 3.05 of the Highland Municipal Code.

Councilor Zemen moved the passage and adoption of Works Board No. 2017-23. Councilor Wagner seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**Town of Highland
Board of Works
Order of the Works Board 2017-23**

AN ORDER APPROVING AND AUTHORIZING THE ENTRY INTO SERVICE AGREEMENT WITH COMCAST FOR CERTAIN TELECOMMUNICATIONS INTERNET AND TELEVISION SERVICES PLUS INSTALLATION SERVICES FOR THE HIGHLAND PARKS AND RECREATION, HIGHLAND MUNICIPAL BUILDING, HIGHLAND PUBLIC WORKS FACILITY, AND THE HIGHLAND FIRE STATIONS, PURSUANT TO CHAPTER 3.05 OF THE HIGHLAND MUNICIPAL CODE.

Whereas, The IT Director (Contract), CBL Consulting, Inc., has recommended certain services for the Highland Parks and Recreation, Highland Municipal Building, Highland Public Works and the Highland Fire Station facilities, for data and audio-visual transmission over internet plus line installation, and related communications services styled as COMCAST Business Voice Edge Services; and

Whereas, The Town Council as the Works Board of the Municipality, pursuant to Section 3.05.030 (A) and (B) of the Municipal Code serves as purchasing agency for the executive departments of the municipality, and the utilities when costs are to be shared; and

Whereas, The amount for all services exceeds fifteen thousand (\$15,000) in a single year plus the agreement is for a term of thirty-six months, represents an agreement for a term of greater than one year, pursuant to Sections 3.05.040 (C) and 3.05.050 (B)(3) of the Municipal Code, requires the express approval of the purchasing agency; and

Whereas, The Highland Municipal Code Section 3.05.090 provides that the purchase of services may in a manner that the purchasing agency determines to be reasonable and appropriate; and

Whereas, The payments will be supported by an appropriation in the Information and Communications Technology Fund; and

Whereas, The Town Council now desires to approve and authorize the proper officer to enter a service agreement pursuant to the terms stated herein,

Now Therefore Be it Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board of Municipality as follows:

Section 1. That the COMCAST Business Service Order Agreement dated September 19, 2017 for data and Business VOICE EDGE services, a copy of which is attached as **an exhibit** and made a part of this order, is hereby authorized and approved in all respects for services to be provided at the following locations and for the following charges:

- (A) Parks and Recreation for its location at 2450 Lincoln Street, for fees in the monthly amount of \$576.10, for a term of 36 months, for a total amount over the term of the agreement of **\$20,739.60**;
- (B) Town Hall for its location at 3333 Ridge Road, for fees in the monthly amount of \$855.20, for a term of 36 months, for a total amount over the term of the agreement of **\$30,787.20**;
- (C) Public Works Facility for its location at 8001 Kennedy, for fees in the monthly amount of \$576.10, for a term of 36 months, for a total amount over the term of the agreement of **\$20,739.60**; and,
- (D) Fire Department Facility for its location at 2901 Highway Avenue, for fees in the monthly amount of \$578.05, for a term of 36 months, for a total amount over the term of the agreement of **\$20,809.80**;

Section 2. That the purchasing agency believes the fees and charges incurred under these agreements are reasonable and appropriate, and the term of thirty-six months to be acceptable;

Section 3. That the Town Council President is authorized and directed to execute the agreement and any additional documents by his signature.

Be it So Ordered.

DULY, PASSED, ADOPTED and Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Board of Works, this 25th day of September 2017 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/ Dan Vassar, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

4. Action to approve appointment or employment of full-time employee, pursuant to Section §3.03 of the Compensation and Benefits Ordinance. *Assistant Public Works Director recommends the following:*

- (A) *The hiring of Kevin Higgins, to the full-time position of Driver B in Public Works Department (Agency) at a rate of pay of \$18.23 per hour. This will not increase the full-time workforce greater than the authorized work force strength.*

(B) *The hiring of Timothy Slifko, to the full-time position of Utility Worker B in Public Works Department (Agency) at a rate of pay of \$12.43 per hour. This will not increase the full-time workforce greater than the authorized work force strength.*

Councilor Zemen moved seconded by Councilor Wagner that *Kevin Higgins and Timothy Slifko* be approved for hire to the positions described, provided that Kevin Higgins obtain his commercial drivers license (CDL) in the first three months of hire. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. Kevin Higgins and Timothy Slifko were approved for hire according to the terms stated.

5. **Authorizing the proper officer to publish legal notice of public hearing** regarding the proposed *Urban Forest Management Plan* for the Town of Highland, Indiana.

Councilor Herak moved that the proper officer be authorized to publish legal notice for a public hearing regarding the proposed *Urban Forest Management Plan*. Councilor Wagner seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The proper officer was authorized to publish legal notice for the public hearing.

Comments from the Town Council:

- **Councilor Bernie Zemen:** *Chamber of Commerce Co-Liaison • IT Liaison*

Councilor Zemen had no comments or report.

- **Councilor Mark Herak:** *Budget and Finance Chair • Liaison to the Board of Sanitary Commissioners • Liaison to the Community Events Commission • Liaison to the Board of Waterworks Directors.*

Councilor Herak had no comments or report.

- **Councilor Steve Wagner:** • *Advisory Board of Zoning Appeals Liaison • Redevelopment Commission Liaison.*

Councilor Wagner had no comments or report.

- **Councilor Konnie Kuiper:** • *Town Board of Metropolitan Police Commissioners, Liaison • Fire Department, Liaison • Chamber of Commerce Co-Liaison.*

Councilor Kuiper had no comments or report.

- **Councilor President Dan Vassar:** *Town Executive • Chair of the Board of Police Pension Trustees • Liaison to the Park and Recreation Board.*

The Town Council President acknowledged the Parks and Recreation Superintendent who reported that the so-called Hawk Traffic Signal for the bicycle trail as it crosses 45th Avenue, would soon be installed.

Comments from Visitors or Residents:

1. Terry Steagall, 8577 Kleinman Road, Highland, noted that the Congress recently passed a joint resolution regarding the issues recently experienced in Charlottesville, Virginia, from a public assembly of persons associated with White Supremacy. He renewed his request that perhaps the Town Council consider passing a resolution expressing opprobrium regarding the conduct exhibited there.

2. Ken Cuvala, Vice President, Property and Casualty, of Wine Sergi Insurance, 1000 E. Warrenville Road, Naperville, Illinois 60563, asked the Town Council for an opportunity to have his new insurance agency be considered by the Town should it be seeking proposals for its casualty and property lines. He then presented a flyer and a letter for each of the members of the Town Council.
3. Diane Dzurochak, 2908 Cambridge way, Highland, commended the Town Council for its action regarding the funding for the U.S. EPA. Ms. Dzurochak expressed disappointment that the Town Council had not yet acted on the matters described by Mr. Steagall, stating that she had hoped for the Town Council to react with less "passivity" and more "certainty."
4. Larry Kondrat, 8115 4th Place East, Highland, expressed his support for President Trump. He further inquired about the Urban Tree Management Plan.
5. James L. Wieser, Attorney, 7348 Winchester Lane, Schererville, noted his past service as a member of the Highland Town Council (18th & 19th) and as Town Council President (31st and 34th), and noted the passing of the Paul L. Doherty, who served as a member of the Highland Town Council (15th, 17th & 18th) and was the 6th Clerk-Treasurer of the Town of Highland. Mr. Wieser also noted his role as Chairman of the Lake County Democratic Central Committee. He dilated on the nature of Mr. Doherty's service and its extensiveness from his service on the Northwestern Indiana Regional Planning Commission, his service on various community and non-profit boards and commissions and his service in the United States Army in World War II.

Mr. Wieser asked if the Town Council would be willing to commemorate Mr. Doherty's service by perhaps renaming the current Highway of Flags Memorial at the intersection of Ridge Road and U.S. 41, for Mr. Doherty or some other measure that would appropriately commend his life of service.

The Town Council President indicated that the Town Council would be open to such a measure.

Mr. Wieser indicated he would follow up with the Town Council at a future date to discuss details.

6. Scott Houldieson, 8927 Parrish Avenue, Highland, asked the Town Council to pass a resolution expressing support of Congressman Pete Visclosky and HR 676 styled as "Medicare for All", which would provide a public, single payer health insurance system.

Payment of Accounts Payable Vouchers. There being no further comments from visitors or residents, Councilor Zemen moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period **September 12, 2017 through September 25, 2017 and the payroll docket for the payday of September 15, 2017.** Councilor Wagner seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The accounts payable vouchers for the vendor docket were allowed, payments allowed in advance were ratified, the payroll dockets listed were ratified and for all remaining invoices, the Clerk-Treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

General Fund, \$272,406.80; Motor Vehicle Highway and Street (MVH) Fund, \$66,631.17; Local Road and Streets Fund, \$16,391.24; Law Enforcement Continuing

Education, Training, and Supply Fund, \$1,244.93; Capital Projects Retainage Agency Fund, \$26,611.36; Information and Communications Technology Fund, \$5,783.04; Solid Waste District Grant Fund, \$115,745.36; Special Events Non Reverting Fund, \$320.29; Cumulative Capital Improvement Fund, \$70,000.00; Municipal Cumulative Capital Development Fund, \$7,985.03; Traffic Violations and Law Enforcement Agency Fund, \$7,432.00; Gaming Revenue Sharing Fund, \$64,081.91; Economic Development Local Income Tax Fund, \$18,970.57; Total: \$ 673,603.70.

Payroll Docket for payday of September 15, 2017:

Council, Boards and Commissions, \$0.00; Office of Clerk-Treasurer, \$12,991.13; Building and Inspection Department, \$8,346.33; Metropolitan Police Department, \$123,797.75; Fire Department, \$3,655.19; Public Works Department (Agency), \$65,461.15 and 1925 Police Pension Plan Pension Fund, \$0.00; Total Payroll: \$214,251.55.

Adjournment of Plenary Meeting. Councilor Kuiper moved that the plenary meeting be adjourned. Councilor Zemen seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, September 25, 2017 was adjourned at 7:59 O'clock p.m.

(Scrivener's note: The Town Council by previous notice issued pursuant to IC 5-14-1.5-6.1 met in Executive Session immediately following the meeting. The memorandum of the executive session is on file with the records of the Town with the Clerk-Treasurer.)

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer